

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT  
219 South Dearborn Street  
Chicago, Illinois 60604

November 4, 2021

Chief Judge Diane S. Sykes

Nos. 07-21-90044 through -90053

IN RE COMPLAINTS AGAINST TEN JUDGES

MEMORANDUM AND ORDER

The complainant filed misconduct complaints against the panel of judges that decided his 2020 appeal and every court of appeals judge who considered and did not vote to grant his petition for rehearing. He accuses these appellate judges of racial discrimination.

In light of Rule 25(b) of the *Rules for Judicial-Misconduct and Judicial-Disability Proceedings*, every circuit judge in regular active service initially was disqualified from considering and ruling on the complaints. RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 25(b). However, Rule 25(f) permits the Judicial Council to assess whether it is in the interest of sound judicial administration to permit the Chief Judge of the Seventh Circuit to dispose of the complaints on the merits. *Id.* R. 25(f). Upon referral from the Chief Judge, the Judicial Council made the following findings regarding these complaints: (1) participation by members of the Council who are named in the complaints was necessary to obtain a quorum for purposes of making the determination required by Rule 25(f); and (2) in the interest of sound judicial administration, the Chief Judge may dispose of the complaints on the merits. *See* Nos. 07-21-90044 through -90053 (issued Oct. 13, 2021).

Turning to the substance of the ten complaints, the complainant challenges the decisions to affirm the judgment of the district court and deny his petition for rehearing, alleging that these decisions were occasioned by racial discrimination. Allegations directly related to the merits of a judge's decisions are not proper grounds for a misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). "Any allegation that calls into question the correctness of an official action of a judge ... is merits related." STEPHEN BREYER ET AL.,

IMPLEMENTATION OF THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1980: A REPORT TO THE CHIEF JUSTICE 145 (2006). To the extent that the complainant challenges the judges' consideration of the evidence and rulings in his civil case, the allegations are merits related and the complaint must be dismissed. § 352(b)(1)(A)(ii).

To the extent that the complainant suggests that the judges were biased against him and engaged in racial discrimination, the allegations are wholly unsupported and likewise must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(c)(1)(D). An adverse decision is not evidence of racial discrimination, and the complainant does not offer any reason to believe that any of the ten judges would have made a different ruling had complainant been of a different race.

For the foregoing reasons, the complaints are dismissed pursuant to § 352(b)(1)(A)(ii) and (iii). The complainant may petition the Judicial Council of the Seventh Circuit for review of this order in accordance with Rule 18(b) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. 28 U.S.C. § 352(c); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(g)(3). A petition for review must be filed in the clerk's office of the United States Court of Appeals for the Seventh Circuit not later than 42 days of the date of this order.